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cc: mhc461@ecy.wa.gov, Roopa Karia/R10/USEPA/US@EPA, Paula VanHaagen/R10/USEPA/US@EPA

Subject: A heads up that we'll be consulting on part of the WA 1997 triennial review

We were able to hire a COOP student, Roopa Karia, this summer, and set her on the task of developing the BE or BA for our consultation with you on the marine copper and marine cyanide criteria in Washington's last triennial review revision (1997). I culled out that chunk to make it a manageable project for her and to address the portion of the standards that Ecology can't implement without our removing them from their inclusion under the National Toxics Rule. The National Toxics Rule was promulgated by EPA in 1992 to put in place numeric toxic criteria where states were missing those criteria, as required by Section 303(c)(2)(B) of the Clean Water Act. In Washington's case, they were missing chronic marine cyanide and copper, among other things (mostly human health criteria). To withdraw Washington from the National Toxics Rule for these two parameters requires that we not only take our 303(c) wqs approval action (which we did in 1998), but also do ESA consultation, and then provide a notice in the FR taking comment on whether these two criteria, which are less stringent than the applicable National Toxics Rule criteria, are acceptable to allow us to withdraw WASHINGTON from the federal rules.

Roopa is estimating that she will complete her draft effects analysis in late October. At that point I'm thinking we may contact you if we have some significant gaps or issues where we may want to talk to your scientists, or we may feel we have a complete document to submit to you for either informal or formal consultation.

By way of background, the marine copper criteria that Washington adopted has since been published as EPA's criteria recommendation nationally under Section 304(a) of the CWA. It's a change from the NTR value because a larger species database became available from some site-specific studies in New York harbor and San Francisco. The cyanide site-specific criterion was developed by a local consultant and EPA and Ecology were both involved as the studies progressed to make sure that the protocol they followed would meet EPA requirements for site-specific criteria.

As the document progresses I'll give you an update on when we may be submitting it to you. Give me a call if you want to talk about how we approach this. Rachel, do I recall you had already started talking to your Science Center about these parameters, or am I making that up?!